

6. On information and belief, Defendant Netflix, Inc. ("Netflix") is a corporation organized under the laws of Delaware with a principal place of business at 100 Winchester Circle, Los Gatos, California 95032. Netflix is registered to do business in the state of Oklahoma.

BACKGROUND

7. Timothy Sepi began working with Joseph Allen Schreibvogel, also known as Joseph Maldonado-Passage and perhaps better known as "Joe Exotic," at the Garold Wayne Zoological Park (the "Park") in March of 2015.

8. Joe Exotic and the Park have been the subject of widespread attention through the years which has increased exponentially in 2020 as a result of the release of the documentary miniseries "Tiger King" on the Netflix streaming service.

9. While employed by the Park, Mr. Sepi worked as a graphic designer and photographer taking photos for the public tours that took place at the Park. Mr. Sepi's job responsibilities for the Park specifically excluded any videography.

10. In late March of 2015, a fire destroyed much of the video footage of Joe Exotic and the Park that had been taken before before Mr. Sepi's arrival.

11. After the fire, in May of 2015, Mr. Sepi formed Whyte Monkee Productions, LLC ("Whyte Monkee") with the approval of Joe Exotic. Mr. Sepi was the sole member, owner and manager of Whyte Monkee.

12. Whyte Monkee was formed for the purpose of producing videos of Joe Exotic that would produce income for Whyte Monkee.

13. Whyte Monkee produced extensive videos with its own equipment until September 2016 (the "Whyte Monkee Videos"). Several of the Whyte Monkee Videos were uploaded on YouTube with notices that Whyte Monkee owned all copyrights.

14. Three of the Whyte Monkee Videos have been registered with the U.S. Copyright Office: (1) Reg. No. PA 2-250-500; (2) Reg. No. PA 2-250-501; and (3) Reg. No. PA 2-250-502 (the "Copyrighted Works").

15. Applications for copyright registration have been filed for five additional Whyte Monkee Videos and three videos by Mr. Sepi individually and are pending with the U.S. Copyright Office (the "Pending Works").

16. On March 20, 2020, Netflix released the Tiger King documentary miniseries and was reportedly watched by over 34 million viewers in the U.S. during the first 10 days.

17. The Tiger King documentary states that it is "A NETFLIX ORIGINAL DOCUMENTARY SERIES."

18. Five of the eight episodes in the Tiger King documentary feature numerous Clips filmed by Mr. Sepi and produced by Whyte Monkee (the "Clips"). These Clips include video from both the Copyrighted Works and the Pending Works. Attached as Exhibit 1 is a summary of the Clips that were used in Tiger King, listing the episode number and timestamps for each Clip.

19. Mr. Sepi and Whyte Monkee did not grant permission to use any of the Clips in the Tiger King documentary.

20. On April 10, 2020, counsel for Mr. Sepi sent a letter to Netflix, providing notice of copyright infringement and requesting a negotiated licensing arrangement. Netflix has never responded to the letter.

21. To date, neither Mr. Sepi nor Whyte Monkee have received any royalties or compensation for use of the Clips in the Netflix Tiger King documentary, nor have either received any acknowledgement in the credits.

CLAIM ONE: COPYRIGHT INFRINGEMENT

22. Plaintiffs repeat, re-allege, and incorporate by reference all preceding paragraphs of this Complaint.

23. Plaintiffs are the owners of the Copyrighted Works.

24. Defendant or its agents copied clips of the Copyrighted Works and used them without permission in the Tiger King documentary. Additionally, copying is established by Defendant's or its agents' access to the works and the striking similarity of the clips used in the Tiger King documentary (they are identical) to the Copyrighted Works.

25. Without Plaintiffs' permission, Defendant copied, prepared derivative works, distributed, marketed, and published clips of Plaintiffs' Copyrighted Works as part of the Netflix Tiger King documentary series. These acts by Defendant or its agents are an infringement of Plaintiffs' Copyrighted works.

26. Due to Defendant's copyright infringement, Plaintiffs have suffered damages in the form of actual damages and Defendant's profits in an amount to be established at trial.

27. Defendant's infringing conduct will continue unless enjoined by this Court.

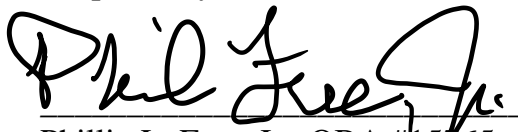
Prayer for Relief

Plaintiffs demand judgment against Defendant as follows:

- a. That Defendant, its affiliates, agents, and employees be permanently enjoined from infringing Plaintiffs copyrights in and to the Copyrighted Works;
- b. That Plaintiffs be awarded all direct or indirect profits of Defendants, the damages to Plaintiff and any other monetary advantage gained by Defendant through the infringement, the exact sum to be proven at the time of trial;
- c. That Plaintiffs be awarded the costs of this action; and
- d. That Plaintiffs be awarded such further legal and equitable relief as the Court deems proper.

JURY TRIAL DEMANDED.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Phil Free Jr.", written over a horizontal line.

Phillip L. Free, Jr., OBA #15765

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